

1 BOIES, SCHILLER & FLEXNER LLP
2 RICHARD J. POCKER (NV Bar No. 3568)
3 300 South Fourth Street, Suite 800
4 Las Vegas, NV 89101
5 TELEPHONE: (702) 382-7300
6 FACSIMILE: (702) 382-2755
7 rpocker@bsfllp.com

5 BOIES, SCHILLER & FLEXNER LLP
6 STEVEN C. HOLTZMAN (*pro hac vice*)
7 FRED NORTON (*pro hac vice*)
8 KIERAN P. RINGGENBERG (*pro hac vice*)
9 1999 Harrison Street, Suite 900
10 Oakland, CA 94612
11 TELEPHONE: (510) 874-1000
12 FACSIMILE: (510) 874-1460
13 sholtzman@bsfllp.com
14 fnorton@bsfllp.com
15 kringgenberg@bsfllp.com

11 BINGHAM McCUTCHEN LLP
12 GEOFFREY M. HOWARD (*pro hac vice*)
13 BREE HANN (*pro hac vice*)
14 THOMAS S. HIXSON (*pro hac vice*)
15 KRISTEN A. PALUMBO (*pro hac vice*)
16 THREE EMBARCADERO CENTER
17 SAN FRANCISCO, CA 94111-4067
18 Telephone: 415.393.2000
19 Facsimile: 415.393.2286
20 geoff.howard@bingham.com
21 thomas.hixson@bingham.com
22 kristen.palumbo@bingham.com

17 DORIAN DALEY (*pro hac vice*)
18 DEBORAH K. MILLER (*pro hac vice*)
19 JAMES C. MAROULIS (*pro hac vice*)
20 ORACLE CORPORATION
21 500 Oracle Parkway
22 M/S 5op7
23 Redwood City, CA 94070
24 Telephone: 650.506.4846
25 Facsimile: 650.506.7114
26 dorian.daley@oracle.com
27 deborah.miller@oracle.com
28 jim.maroulis@oracle.com

24 Attorneys for Plaintiffs
25 Oracle USA, Inc., Oracle America, Inc., and
26 Oracle International Corp.

26 SHOOK, HARDY & BACON LLP
27 B. Trent Webb (*pro hac vice*)
28 Eric Buresh (*pro hac vice*)
2555 Grand Boulevard
2555 Kansas City, Missouri 64108-2613
26 Telephone: (816) 474-6550
27 Facsimile: (816) 421-5547
28 bwebb@shb.com
eburesh@shb.com

26 Robert H. Reckers (*pro hac vice*)
27 600 Travis Street, Suite 1600
28 Houston, Texas 77002
25 Telephone: (713) 227-8008
26 Facsimile: (713) 227-9508
27 rreckers@shb.com

26 LEWIS AND ROCA LLP
27 W. West Allen (Nevada Bar No. 5566)
28 3993 Howard Hughes Parkway, Suite 600
25 Las Vegas, Nevada 89169
26 Tel: (702) 949-8200
27 Fax: (702) 949-8398
28 WAllen@LRLaw.com

26 GREENBERG TRAURIG
27 Mark G. Tratos (Nevada Bar No. 1086)
28 Brandon Roos (Nevada Bar No. 7888)
25 Leslie Godfrey (Nevada Bar No. 10229)
26 3773 Howard Hughes Parkway
27 Suite 400 North
28 Las Vegas, NV 89169
25 Telephone: (702) 792-3773
26 Facsimile: (702) 792-9002
27 tratosm@gtlaw.com
28 roosb@gtlaw.com
godfreyl@gtlaw.com

26 Attorneys for Defendants Rimini Street,
27 Inc., and Seth Ravin

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation; ORACLE AMERICA, INC., A Delaware corporation; and ORACLE INTERNATIONAL CORPORATION, a California corporation,

v. Plaintiffs,

RIMINI STREET, INC., a Nevada corporation;
AND SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-PAL

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
[PROPOSED] ORDER**

Date: September 20, 2011
Time: 9:00 a.m.
Place: Courtroom 3B
Judge: Magistrate Peggy A. Leen

Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corp.

(collectively, “Oracle” or “Plaintiffs”) and Defendants Rimini Street, Inc. (“Rimini Street”) and Seth Ravin (“Ravin”) (together, “Rimini” or “Defendants”; together with Oracle, the “Parties”) jointly submit this Case Management Conference Statement and [Proposed] Order in advance of the September 20, 2011 Case Management Conference (“CMC”) to provide the Court with a status report of the pending matters.

Part I addresses the current status of the pleadings. Part II provides a status report on the party and non-party discovery to date. Part III sets forth the Parties' stipulation regarding depositions and Requests for Admission.

As there are no issues that currently require the Court's attention, and as discovery is proceeding in accordance with the schedule set by the Court, the Parties jointly request that the September 20 CMC be vacated and rescheduled for the week of November 7, 2011. The Parties propose November 8, 2011.

I. PLEADINGS

No changes have been made to the pleadings since the Parties filed their Joint Case Management Statement on August 2, 2011.

1 **II. DISCOVERY PROGRESS**

2 Since the last Joint Case Management Statement was filed on August 2, 2011, the Parties
3 have made the following progress in discovery:

4 **A. Discovery Sought From and Produced By Plaintiffs.**

5 **1. Documents**

6 On August 10, 2011, Rimini served its Fourth Set of Requests for Production, consisting
7 of 19 requests. Between August 2, 2011 and the submission of this statement, Oracle has
8 produced more than 140,000 additional documents, totaling more than 775,000 pages, including
9 thousands of voluminous Excel files, customer contracts and related documentation, customer-
10 specific reports (referred to as “oki3 reports”), software and support materials, copyright
11 registrations, deposit materials, download audit and download metrics logs and related
12 information, product tables, terms of use and e-delivery licenses.

13 **a. Custodial Productions**

14 On September 8, 2011, Oracle substantially completed document productions from all 55
15 agreed-upon Oracle production custodians, consistent with Oracle’s discovery responses and
16 objections.

17 **b. Non-Custodial Productions**

18 Oracle continues to gather and review non-custodial documents for production, including
19 customer contract documents, copyright registrations, deposit materials, and software. The
20 volume and timing of these productions have been impacted by the lack of progress in the pre-
21 trial stipulations the parties have been negotiating for several months. Currently, Oracle has
22 produced approximately 90% of the requested PeopleSoft, J.D. Edwards and Siebel customer
23 contract documents. Oracle expects to complete its production of these customer contract
24 documents by the end of October.

25 On August 30, Oracle completed its production of all outstanding copyright registrations,
26 deposit materials, and software, consistent with its discovery responses and objections.
27 Production of further historical information regarding the development of certain of Oracle’s
28 registered, copyrighted software is ongoing.

2. Interrogatories

On September 2, 2011, Rimini served Oracle with its Fourth Set of Interrogatories, which consisted of Interrogatory No. 16.

3. Requests for Admission

Rimini has not served Oracle with any Requests for Admissions since the last Case Management Conference.

4. Depositions

Rimini has taken two depositions of Oracle witnesses since the last Case Management Conference, while one additional deposition notice for an Oracle employee remains pending at this time.

B. Discovery sought from and produced by Defendants

1. Documents

Oracle served its Second Request for Inspection to Rimini Street on August 25, 2011, and its Sixth Set of Requests for Production to Rimini Street on September 7, 2011, numbered 66 through 82. Between August 2, 2011 and the submission of this statement, Rimini has produced approximately 294,000 additional documents, totaling approximately 1,798,000 pages. These materials include e-mails, log files, archive material, share drive material, updated HRMS data, customer service agreements, additional SharePoint data and over 73,100 native files. In addition, Rimini has produced approximately 76 additional environments as well as various other one-off native productions relating to SalesForce exports, TUSS spreadsheet, DevTrack spreadsheets and Client Physical Media files, as requested by Oracle. To date, Rimini has produced over 754,000 documents totaling over 6,048,000 pages, as well as over 81,200 native files, numerous environments, financial information, ticketing system data, data archive, source code, log files, various extract and individual VMs and network shares.

a. Custodial Productions

Rimini has substantially completed document productions from all 55 agreed-upon Rimini's production custodians, consistent with Rimini's discovery responses and objections.

b. Non-Custodial Productions

1 Rimini has completed gathering, reviewing and producing non-custodial documents,
2 including materials from various department shares and non-custodial email files. Productions
3 from these sources included data relating to financial, client relationships, marketing and sales.

4 **2. Interrogatories**

5 On August 26, 2011, Oracle served Rimini Street with Oracle's Seventh Set of
6 Interrogatories, numbered 27-31.

7 **3. Requests for Admission**

8 On August 26, 2011, Oracle International Corp. served Rimini Street with its First Set of
9 Requests for Admission, numbered 1-18.

10 **4. Depositions**

11 Oracle took depositions on September 1, September 7 and September 16, totaling three
12 depositions since the last Joint Case Management Statement was filed. Oracle's deposition of a
13 Rimini Street former employee has been rescheduled to September 27. Oracle has scheduled the
14 deposition of one Rimini Street employee for October 4, and Rimini has offered dates in mid-
15 October for a second employee deposition. Oracle's deposition of Defendant Seth Ravin has
16 been rescheduled to October 28, 2011.

17 **C. Third Party Discovery**

18 **1. Customers**

19 As of the filing of this statement, Oracle has served a total of 254 customer subpoenas.
20 Oracle has received approximately 230 document productions in response to these subpoenas.
21 Oracle continues to seek the cooperation of subpoenaed customers with outstanding or deficient
22 productions.

23 Oracle's effort to process and produce customer productions to Rimini is ongoing.

24 Oracle has sent approximately 173 customer productions to Rimini and received approximately
25 18 third-party productions from Rimini.

26 Oracle has made state "sunshine act" requests of 46 public entities that may have
27 had significant contact with Rimini, and 43 entities have responded with a substantive
28 production. Oracle's effort to process and produce public entity productions to Rimini is

1 ongoing. No new formal requests have been made since the last CMC; however, Oracle made an
 2 informal second request to one entity on September 1. Oracle has sent approximately 37 public
 3 entity productions to Rimini. The Parties' review of the sunshine act materials is ongoing.

4 Oracle has served four notices of customer depositions, is negotiating with one customer
 5 regarding deposition date prior to service, and plans to notice several additional customer
 6 depositions in September. Oracle will timely notice the remainder of its allotted, two-hour
 7 customer depositions as it continues to review Defendants' and customers' ongoing document
 8 productions.

9 **2. Other Third Parties**

10 Since the last CMC, Oracle has continued to negotiate with other third parties regarding
 11 discovery. This includes third-party support providers CedarCrestone, netCustomer, Summit
 12 Technology, and Spinnaker. Oracle served a subpoena on JMP Securities on September 2.
 13 Oracle also received a further production of documents from Rimini investor Adams Street
 14 Partners on August 19.

15 **III. STIPULATIONS AND REQUEST TO RESCHEDULE CASE
 16 MANAGEMENT CONFERENCE**

17 For much of 2011, the Parties have been grappling with how to develop trial proof
 18 relating to the vast and complex data associated with the claims and defenses in this case. As the
 19 Parties have reported to the Court on prior occasions, the Parties have been negotiating with
 20 respect to possible stipulations relating to extrapolation and to Oracle's copyright registrations
 21 since March 29, 2011. Unfortunately, the Parties appear to be at impasse regarding any
 22 stipulated extrapolation, because the Parties disagree about whether any stipulation should result
 23 in limitation of the damages theories and evidence in support of those theories that Oracle may
 24 present at trial. Given this impasse and the present late stage of discovery, Rimini Street has
 25 agreed that Oracle may take four additional depositions. [From](#) Rimini's perspective, these
 26 additional depositions account for the Parties' present failure to agree to the terms of the
 27 stipulations, and Rimini will opposes any further expansion of the deposition limits. On the
 28 other hand, Oracle reserves all rights as to whether additional depositions may be necessary. The

1 Parties have also reached an agreement about Requests for Admission.

2 **A. Summary of Stipulation Negotiations**

3 At the March 29, 2011 status conference, the Court urged the Parties to develop
4 representative samples of data against which to develop discovery and to stipulate to undisputed
5 facts where possible.

6 As set out in the Parties' Joint Case Management Statements dated May 13, 2011, Dkt.
7 136, and August 2, 2011, Dkt. 160, the Parties have been negotiating with respect to possible
8 stipulations relating to extrapolation and to Oracle's copyright registrations for over five months.
9 Since the Parties last reported their progress to the Court, Oracle has sent further drafts of an
10 extrapolation stipulation on August 7 and August 24, to which Defendants responded on August
11 26. The parties have met and conferred in person on August 9, and by telephone on August 19
12 and September 8. All told, the parties have exchanged approximately seven draft stipulations (on
13 essentially three subjects: environment copies, fixes, and foundational facts) and engaged in
14 approximately ten hours of in-person or telephonic meeting and conferring over six separate
15 sessions.

16 The Parties have discussed extrapolating the analysis of two categories of data:
17 environments (installed copies of Oracle's enterprise software) and fixes (the code objects
18 delivered to customers in the course of supporting Oracle enterprise software; the vast majority
19 of these code objects are themselves derived from existing environments).

20 **B. Discovery Stipulations**

21 In order to further develop the record regarding Rimini Street's use of local environments
22 and Rimini Street's development of PeopleSoft fixes, the Parties have agreed that, in addition to
23 the 20 non-customer depositions currently permitted under the Court's Discovery Plan and
24 Scheduling Order, Dkt. 109, Oracle may take two additional depositions limited to six record
25 hours and two additional depositions limited to three record hours.

26 The Parties have also met and conferred on Requests for Admissions. Rimini has agreed
27 that each side may have up to 250 RFAs. Rimini has further stated that it would be open to
28 further expansion of this limit, provided the requests are used efficiently. While reserving its

1 rights regarding the appropriate RFA limit, if any, Oracle has agreed to serve up to 250 RFAs
2 and to meet and confer if it believes in good faith that it may require additional RFAs.

3 As there are no issues that require the Court's attention, and as discovery is proceeding in
4 accordance with the schedule set by the Court, the Parties jointly request that the September 20
5 CMC be vacated and rescheduled for the week of November 7, 2011. The Parties propose
6 November 8, 2011, if that date would be convenient for the Court. A proposed order granting
7 such relief is included herewith.

8
9 DATED: September 19, 2011

10 BINGHAM McCUTCHEN LLP

11 By: /s/ Geoffrey M. Howard

12 Geoffrey M. Howard (*pro hac vice*)
13 Three Embarcadero Center
14 San Francisco, CA 94111-4067
15 Telephone: 415.393.2000
16 Facsimile: 415.393.2286
17 geoff.howard@bingham.com

18 Attorneys for Plaintiffs

SHOOK, HARDY & BACON LLP

11 By: /s/ Robert H. Reckers

12 Robert H. Reckers (*pro hac vice*)
13 600 Travis Street, Suite 1600
14 Houston, Texas 77002
15 Telephone: (713) 227-8008
16 Facsimile: (731) 227-9508
17 reckers@shb.com

18 Attorneys for Defendants

ATTESTATION OF FILER

19 The signatories to this document are myself and Robert Reckers and I have obtained Mr.
20 Reckers's concurrence to file this document on his behalf.
21 DATED: September 19, 2011

BINGHAM McCUTCHEN LLP

22 By: /s/ Geoffrey M. Howard

23 Geoffrey M. Howard (*pro hac vice*)
24 Three Embarcadero Center
25 San Francisco, CA 94111-4067
26 Telephone: 415.393.2000
27 Facsimile: 415.393.2286
28 geoff.howard@bingham.com

26 Attorneys for Plaintiffs

[PROPOSED] ORDER

It is hereby **ORDERED** that the discovery limits in the case are modified as followed:

1. By agreement of the parties, subject to Oracle's reservation of rights, each side may serve up to 250 Requests for Admission.
2. By agreement of the parties, Oracle may take four additional depositions of non-customers: two additional depositions of up to six record hours and two additional depositions of up to three record hours, for a total of 24 non-customer depositions.
3. The September 20, 2011 CMC is vacated and rescheduled for _____, 2011 at _____ in Courtroom 3B.

Hon. Peggy A. Leen

United States Magistrate Judge